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APPLE INC.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

AMANDA FRLEKIN, AARON GREGOROFF,
SETH DOWLING, DEBRA SPEICHER; AND
TAYLOR KALIN, on behalf of themselves and
all others similarly situated,

Plaintiffs,

v.

APPLE INC.,

Defendant.

Case No. 13cv03451-WHA

**JOINT RESPONSE TO THE COURT'S
REQUEST FOR CLARIFICATION**

Place: Ctrm. 12, 19th Floor
Judge: Hon. William Alsup

Plaintiffs Amanda Frlekin, Seth Dowling, Aaron Gregoroff, Taylor Kalin, and Debra Speicher (collectively, “Plaintiffs”), and Defendant Apple Inc. (“Apple”), submit this joint response to the Court’s request for clarification (ECF No. 469) regarding Plaintiffs’ Motion for Preliminary Approval of Stipulation Regarding Class and Private Attorneys General Act Settlement and Release for Class of 105 Additional Employees (“Separate Settlement”) (ECF No. 448) and Plaintiffs’ Proposed Order Granting Motions for Attorneys’ Fees (ECF No. 467).

1. Increase in Value of Separate Settlement

Pursuant to the Separate Settlement, the parties agreed that the 105 additional employees included in the Separate Settlement would be compensated on the same net shift value as the Settlement Class Members received under the original Stipulation Regarding Class and Private Attorneys General Act Settlement and Release (the “November 2021 Settlement Agreement”). The parties previously calculated the net shift value under the November 2021 Settlement Agreement to be \$2.80 per shift based on Plaintiffs’ request for attorneys’ fees of 1/3 of the Total Settlement Amount under the November 2021 Settlement Agreement and Plaintiffs’ request for Class Representative Payments and Service Payment in the total amount of \$50,000. However, as a result of the Court’s determinations regarding Plaintiffs’ Motions for Award of Attorneys’ Fees and Litigation Costs (ECF No. 434) and Class Representative and Named Plaintiff Service Awards (ECF No. 435), the net shift value under the November 2021 Settlement Agreement increased from \$2.80 to \$2.95, and therefore the value of the Separate Settlement increased from \$32,171.58 to \$33,895.06. More specifically, in granting final approval of the November 2021 Settlement Agreement, the Court approved an award of attorneys’ fees to Plaintiffs’ counsel in the amount of 30% of the Total Settlement Amount and awarded Class Representative Payments and a Service Award in the total amount of \$10,000.¹ As a result, the net shift value under the November 2021 Settlement Agreement increased from \$2.80 per shift to \$2.95 per shift. Accordingly, to account for the increase in the net shift value and to ensure the 105 additional employees covered by the

¹ The Total Settlement Amount as used herein means the \$29.9 million sum Apple agreed to pay under the November 2021 Settlement Agreement, plus the \$578,508.99 Apple agreed to add to the November 2021 Settlement Agreement to account for 203,557 undercounted shifts, plus the \$32,171.58 the parties originally anticipated would be paid under the Separate Settlement.

1 Separate Settlement are compensated on the same net shift value as Settlement Class Members under
2 the November 2021 Settlement Agreement, Apple agreed to pay \$33,895.06 under the Separate
3 Settlement.

4 **2. No Effect on Attorneys' Fees**

5 Despite an increase in the total amount to be paid by Apple under the Separate Settlement,
6 Plaintiffs' counsel are not seeking any fees on that increased sum. Rather, the parties request that
7 the Court use the originally-estimated \$32,171.58 value of the Separate Settlement when calculating
8 Plaintiffs' attorneys' fees such that the calculation provided by Plaintiffs' counsel in Plaintiffs'
9 Proposed Order Granting Motions for Attorneys' Fees (ECF No. 467) is unaffected.

10 Dated: August 4, 2022

DLA PIPER LLP (US)

11
12 By: /s/ Matthew Riley
13 JULIE DUNNE
14 MATTHEW RILEY

15 *Attorneys for Defendant Apple Inc.*

16 Dated: August 4, 2022

McLAUGHLIN & STERN, LLP

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18 By: /s/ Lee Shalov
19 LEE SHALOV

20 *Attorneys for Plaintiffs and the Class*
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ATTESTATION

In accordance with Local Rule 5-1(i)(3), I attest that the other Signatories named above have concurred in the filing of this document.

Dated: August 4, 2022

McLAUGHLIN & STERN, LLP

By: /s/ Jason S. Giaimo

Attorneys for Plaintiffs and the Class